

09/640098
Rec'd PCT/PTO 02 MAY 2001

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

David G. RICHARDS et al

Appln. No.: 09/647,098

Group Art Unit: 0000

Filed: September 26, 2000

Examiner: Unknown

For: VACCINATION MODALITIES

PETITION UNDER 37 C.F.R. § 1.47(a)

ATTN: BOX MISSING PARTS

Assistant Commissioner

of Patents

Washington, D.C. 20231

Sir:

Pursuant to 37 C.F.R. § 1.47(a), Applicants hereby petition to be permitted to proceed with prosecution of the above-identified application absent the signature of one of the joint inventors, who refuses to execute the Declaration and Power of Attorney for the above-identified application. The grounds for the petition are set forth below and are supported by accompanying documentary evidence (Declaration of Dr. Peter A. Stearne (hereinafter the "Stearne Declaration"), along with Exhibits PAS-1 through PAS-11 attached thereto).^{1/}

1. The above-identified application is a Rule 371 of PCT/AU99/00232, which was filed on behalf of Eimeria Pty Limited, The State of Queensland through the Department of

^{1/} Dr. Stearne acts as Australian Patent Counsel on behalf of the assignees.

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Primary Industries, and the Rural Industries Research and Development Corporation.

2. As explained in the Stearne Declaration, there are three inventors listed on the PCT Application: David Grant Richards, Wayne Keith Jorgensen and Norman Porter Stewart (Stearne Declaration, ¶3).

3. Both Wayne Keith Jorgensen and Norman Porter Stewart were employees of the State of Queensland through the Department of Primary Industries (hereinafter "the State of Queensland"), and were obligated to assign their rights to the State of Queensland (Stearne Declaration, ¶4).

4. On May 10, 1999, Dr. Stearne advised his client that formal papers related to the PCT Application and the U.S. designation needed to be executed and filed (Stearne Declaration, ¶5).

5. On August 4, 1999, Dr. Stearne was informed that Norman Porter Stewart was no longer an employee of the State of Queensland. Thus, on August 4, 1999, Dr. Stearne forwarded a formal paper for the PCT Application (PCT Power of Attorney) directly to Mr. Stewart to execute (Stearne Declaration, ¶¶6-7).

6. The formal papers were sent to Mr. Stewart at his last known address: 25 Ocean View Street, Point Vernon, Harvey Bay, Queensland 4655, AUSTRALIA.

7. Dr. Stearne was subsequently informed by Mr. Stewart's legal counsel that Mr. Stewart would not execute the Power of Attorney or any other document relating to the PCT Application or any application based thereon unless he received 50,000 Australian Dollars (Stearne Declaration, ¶¶8-9).

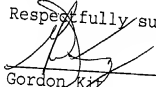
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8. Dr. Stearne reminded Mr. Stewart, through Mr. Stewart's counsel, that per his employment agreement with the State of Queensland, Mr. Stewart was contractually bound to sign any and all documents on behalf of his former employer (Stearne Declaration, ¶9).
9. Mr. Stewart sought to extort money in order to sign documents pertaining to the PCT Application, or any application based thereon and has refused to execute the Declaration and Power of Attorney for the above-identified application (Stearne Declaration, ¶¶10-11).
10. The PCT Branch at the Australian Patent Office was advised of the above on August 19, 1999 (Stearne Declaration, ¶9).
11. Mr. Stewart has refused to sign the formal papers for the above-identified application (PAS-10 through PAS-11).
12. Submitted concurrently herewith is the executed Declaration and Power of Attorney and a "Statement By Joint Inventors On Behalf Of Non-signing Inventor Who Refuses To Sign" executed by two of the inventors David Grant Richards and Wayne Keith Jorgensen on behalf of the non-signing inventor Norman Porter Stewart.
13. A check for the petition fee of \$130.00 under 37 C.F.R. § 1.117 is attached.

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The Assistant Commissioner is hereby authorized to charge any underpayment or credit any overpayment to Deposit Account No. 19-4880. A duplicate copy of this paper is attached.

Respectfully submitted,


Gordon Kitz

Registration No. 30,764

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Date: May 2, 2001